THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

On Monday, the second day of January,

two thousand and six.

W.P.No.No.8617 of 1996

Guttula Janardhanarao and others.

…….Petitioner.

And:

The State of A.P., represented by the Secretary, Revenue, Endowment-II, Secretariat Buildings, Hyderabad and others.

…….Respondents.

O R D E R:

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Alleging that respondents 1 to 4 are trying to take possession of the lands in their possession which were taken on lease by them from the 5th respondent, along with some other lands, to provide house sites to weaker sections of the society without following the procedure prescribed under the Land Acquisition Act (for short 'the Act') and are trying to dispossess them by force, petitioners filed this petition.

Though the writ petition is of 1996, no counter affidavit is filed on behalf of the respondents 1 to 4 till today. Since petitioners who claim to be tenants of small extents of land belonging to the 5th respondent temple cannot be dispossessed without following the due process of law, and since enquiry under Section 5-A Act, as held by the apex court in **Union of India v. Mukhesh Hans** and **Union of India v. Krishan Lal Arneja,** is a valuable right and the enquiry under Section 5-A of the Act cannot be dispensed with in a routine and mechanical manner and can be dispensed with only when there is passing exigency or necessity, and since the proposed acquisition of land in this case is for providing house sites to weaker sections of the society, which is not such a pressing necessity as cannot wait till enquiry under Section 5-A of the Act is completed, dispensation of enquiry under Section 5-A of the Act is improper and unwarranted.

Hence I dispose of the writ petition with a direction to the respondents 1 to 4 not to dispossess the petitioners without following the due process of law and in case they intend to acquire the property belonging to 5th respondent which is in possession of the petitioners, they should do so, only after holding an enquiry under Section 5-A of the Act. No costs.

JUSTICE C.Y.SOMAYAJULU

2nd January 2006.

BCS